1 BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION 2 OF THE STATE OF OREGON 3 In the Matter of the STIPULATION OF FACTS AND 4 Teaching License of: FINAL ORDER OF REPRIMAND AND 5 BARBARA K. MALIZIA 6 On or about September 10, 2008, the Teacher Standards and Practices Commission 7 (Commission) received a report indicating that Ms. Malizia may have engaged in conduct 8 constituting gross neglect of duty. 9 The Commission charged Ms. Malizia with gross neglect of duty and issued a Notice of 10 Opportunity for Hearing on May 13, 2009. After review of the matters alleged, Ms. Malizia and 11 the Commission agree that their respective interests, together with the public interest, are best 12 served by a stipulation to certain facts, the imposition of a public reprimand and probation. 13 By signing below, Ms. Malizia acknowledges, understands, stipulates, and agrees to the 14 following: (i) she has been fully advised of his rights to notice and a hearing to contest the 15 findings of fact, conclusions of law, and order set forth below, and fully and finally waives all 16 such rights and any rights to appeal or otherwise challenge this Stipulation of Facts and Final 17 Order of Reprimand (Stipulation and Final Order); (ii) this Stipulation and Final Order is a public 18 document and disclosed to the public upon request by the Commission; (iii) this Stipulation and 19 Final Order is contingent upon and subject to approval and adoption by the Commission. If the 20 Commission does not approve and adopt this Stipulation and Final Order, then neither Ms. 21 Malizia nor the Commission are bound by the terms herein; (iv) she has fully read this 22 Stipulation and Final Order, and understands it completely; (v) she voluntarily, without any force 23 or duress, enters into this Stipulation and Final Order and consents to issuance and entry of the 24 Stipulated Final Order below; (vi) she states that no promises or representation has been made 25 to induce him to sign this Stipulation and Final Order; and (vii) she has consulted with an 26 attorney regarding this Stipulation and Final Order and has been fully advised with regard to his 27 rights thereto, or waives any and all rights to consult with an attorney prior to entering into this

1	Stipulation and Final Order and issuance and entry of the Stipulated Final Order below. This
2	Order sets forth the facts upon which the parties have agreed and the sanction to be imposed.
3	While Ms. Malizia disputes the finding that she deliberately struck a student with her cane, for
4	purposes of settlement she stipulates to the facts and conclusions of law set forth below. In
5	entering into this stipulation, Ms. Malizia waives the right to a hearing to contest the findings of
6	fact, conclusions of law and order set forth below.
7	STIPULATION OF FACTS
8	1. The Commission first licensed Ms. Malizia on August 29, 2007. Ms. Malizia's current
9	Initial I Teaching License, with an endorsement in Special Education, is valid through August 9,
10	2010.
11	2. During the 2007-2008 school year, Ms. Malizia was employed by Willamette ESD as a
12	Life Skills teacher at the Cozine Campus.
13	3. On or about April 24, 2008, Ms. Malizia was using an aluminum cane due to an
14	earlier incident in which she sustained an on the job injury. On this day, Ms. Malizia raised the
15	cane above a 10 year old special needs student as he lay on the ground kicking at her. While
16	Ms. Malizia was negotiating with the student to persuade him to discontinue his disruptive
17	behavior, the cane contacted the student's legs.
18	4. A teaching assistant who witnessed the incident reported that Ms. Malizia raised her
19	cane and hit the student with it.
20	5. As a result of this incident, the district issued a Letter of Reprimand to Ms. Malizia on
21	June 18, 2008.
22	IT IS SO STIPULATED AND AGREED TO:
23 24	Barbara K. Malizia J/1/1/09 Date
25	
26 (27	Victoria Chamberlain, Executive Director Date
28	Teacher Standards and Practices Commission

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2 Ms. Malizia's conduct described in paragraph 3 and 4 above constitutes gross neglect of 3 duty in violation of ORS 342.175(1)(b); OAR 584-020-0040(4)(n) as it incorporates 584-020-4 0025(2)(a) (establishing and maintaining classroom management that is conducive to learning); 5 and OAR 584-020-040(4)(d)(unreasonable physical force against students, fellow employees, 6 or visitors to the school, except as permitted under ORS 339.250), and OAR 584-020-7 0040(4)(n) as it incorporates 584-020-0010(5) (use professional judgment). 8 The Commission has the authority to impose discipline in this matter under ORS 9 342.120 through 342.430 and OAR Chapter 584. 10 **FINAL ORDER** 11 The Commission adopts and incorporates herein the above finding of facts, 12 conclusions of law, and based thereon, imposes a Public Reprimand on Barbara K. Malizia. 13 This Order shall serve as the Public Reprimand. Ms. Malizia will be placed on probation for two 14 years beginning with the date this order is issued, subject to the following conditions: 15 1. Ms. Malizia shall at her own expense obtain an anger management assessment 16 before December 1, 2009: 17 2. Ms. Malizia shall report in writing within ten days to the Executive Director of the 18 Commission any arrest or citation for any felony, misdemeanor, major traffic violation or criminal 19 probation; and 20 3. Ms. Malizia shall comply with the Standards for Competent and Ethical Performance 21 of Oregon Educators under Oregon Administrative Rules Chapter 584, Division 020. Violation of 22 any term or condition of probation shall constitute an independent basis for the Commission to 23 revoke Ms. Malizia's teaching license or otherwise impose discipline, after first providing Ms. 24 Malizia with notice and opportunity for hearing. 25 /// 26 ///

CONCLUSIONS OF LAW

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1	Issued and dated this day of November, 2008.
2	TEACHER STANDARDS AND PRACTICES COMMISSION STATE OF OREGON
4 5 6	By Wictoria Chambertain, Executive Director
7	Approved as to form:
8 9 10	Christine Moore, OSB # 060270 Attorney for Barbara Malizia

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